

SECOND REGULAR SESSION

SENATE BILL NO. 817

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATORS SCOTT, KOSTER, CALLAHAN, MAYER, GREEN AND GIBBONS.

Read 1st time January 5, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

4179S.01I

AN ACT

To repeal sections 287.896 and 374.790, RSMo, and to enact in lieu thereof one new section relating to workers compensation insurance.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 287.896 and 374.790, RSMo, are repealed and one new
2 section enacted in lieu thereof, to be known as section 287.896, to read as follows:

287.896. 1. [Within forty-five days of August 28, 1993, the director of the
2 department of insurance shall approve a plan of operation for a new residual
3 market that will guarantee] **In addition to the provisions of sections**
4 **287.900 to 287.920, the Missouri employers mutual insurance company**
5 **established in section 287.902 shall operate as the insurer for any**
6 **Missouri employer that is in good faith entitled to but who is unable to**
7 **procure such coverage through ordinary methods. The company shall**
8 **provide** insurance coverage and quality loss prevention and control services for
9 **such** employers [seeking coverage through the plan. The new residual market
10 shall begin operation January 1, 1994].

11 2. [All insurers authorized to write workers' compensation and employers'
12 liability insurance shall participate in such plan providing for the equitable
13 apportionment among them of insurance which may be afforded applicants who
14 are in good faith entitled to but who are unable to procure such insurance
15 through ordinary methods, except that all employers that have expiring annual
16 premiums greater than two hundred fifty thousand dollars must negotiate a
17 retrospective rating plan with their insurer that is acceptable to the director of
18 the department of insurance. The rates, supplementary rate information and
19 policy forms to be used in such a plan and any future modification thereof must

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 be submitted to the director for approval at least seventy-five days prior to their
21 effective date. Such rates shall be set by the director after hearing so that the
22 amount required in premiums, together with reasonable investment income
23 earned on those premiums, is not excessive, inadequate or unfairly discriminatory
24 and is actuarially sufficient to apply claims and losses and reasonable operating
25 expenses of the insurers. Nothing contained herein shall prevent the director
26 from including a merit rating plan for nonexperienced rated employers within the
27 residual market plan. The director shall adopt within the plan a system to
28 distribute any residual market deficit through an assessment on insurance
29 carriers authorized to write workers' compensation insurance in proportion to the
30 respective share of voluntary market premium written by such carrier.

31 3. The director shall disapprove any filing that does not meet the
32 requirements of this section. A filing shall be deemed to meet such requirements
33 unless approved, disapproved or modified by the director within seventy-five days
34 after the filing is made. In disapproving a filing made pursuant to this section,
35 the director shall have the same authority and follow the same procedures as in
36 disapproving a rate filing pursuant to the requirements for filings in the
37 voluntary market. The designated advisory organization may make and file the
38 plan of operation, rates, rating plans, rules and policy forms under this section.

39 4.] The director shall [establish by rule standards to] assure that any
40 employer insured [through the plan] **pursuant to this section** shall receive the
41 same quality of service in the areas of employee classification, safety engineering,
42 loss control, claims handling and claim reserving practices as do employers which
43 are voluntarily insured as provided in section 287.123. [The standards
44 established by the director pursuant to this subsection shall also specify the
45 procedures and grounds under which an employer insured through the plan shall
46 be assigned an insurer, and the method by which such employers shall be
47 informed of such procedures and grounds. All insurers of the residual market
48 shall process applications, conduct safety engineering or other loss control
49 services and provide claims handling within the state of Missouri or adjoining
50 states.]

[374.790. The department of insurance shall prepare and
2 submit a plan to the general assembly by September 1, 1993, to
3 reduce the number of employers insured through the residual
4 market. The department shall specifically examine and address in
5 its plan the following topics:

(1) The use of an employer's experience modification factor and the appropriate level thereof as an objective criterion in determining eligibility for coverage;

(2) The maximum amount of such coverage an insurer would be required to issue, expressed as a percentage of its voluntary business;

(3) Providing a system of incentives to insurers to voluntarily cover employers which had been insured through the residual market by reducing the amount of coverage required to be provided by such insurer under the plan;

(4) The effect of the implementation of such plan on the competitive voluntary insurance workers' compensation market in Missouri in terms of the number of insurers actively competing, the availability of coverage by classification and pricing by classification;

(5) Permitting insurers to file separate rates by classification for employers which they may be required to insure under such plan;

(6) Requiring that only agents which have been appointed by such insurer may submit applications for coverage under such plan;

(7) The results of this plan in other jurisdictions where it has been implemented in either workers' compensation or other lines of insurance;

(8) Requiring nonexperienced rated employers or employers not eligible for experience rating, as a condition to receive coverage, to utilize the insurer's managed care medical program and to comply with the insurer's loss control or safety engineering program.

Upon receipt of the plan, the general assembly shall, by concurrent resolution disapprove such plan by September 24, 1993. If the plan is not disapproved it shall be implemented by rule on January 1, 1994. If the plan is not submitted to the general assembly under the provisions of this section, it shall not be implemented by rule.]